



# CITY OF SANTA BARBARA

## ORDINANCE COMMITTEE AGENDA REPORT

**AGENDA DATE:** October 26, 2010

**TO:** Ordinance Committee Members

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Zoning Information Report Ordinance Revisions

**RECOMMENDATION:** That the Ordinance Committee:

- A. Review proposed amendments to Municipal Code Section 22.87.220 regarding Zoning Information Reports; and
- B. Make recommendations to City Council for Ordinance adoption.

### **DISCUSSION:**

On October 12, 2010, the Ordinance Committee reviewed several proposed Ordinance amendments pertaining to the City's design review process, sign regulations, and Zoning Information Reports (ZIRs). The Committee took action on amendments pertaining to the reconstitution of the Sign Committee, terminology surrounding design review approvals, and discretionary project expirations, and continued the discussion on the following topics:

- Exemptions from the requirement to obtain a ZIR prior to the transfer of residential property; and
- Changes to clarify sign regulations and improve sign enforcement.

Further discussion of these two topics was deemed necessary in order to receive more public comment and additional information and clarification from staff on the impacts of the proposed changes.

At this time, Staff is providing additional information regarding the ZIR amendments. Additional information related to proposed sign regulation amendments will be forthcoming for the Ordinance Committee's November 9, 2010 meeting.

### Zoning Information Reports

Currently, a ZIR is required to be prepared by staff and provided, via the property owner, to the buyer of residential property prior to the transfer of title. The primary purpose of the ZIR is to provide information to the potential buyer of residential property concerning the zoning and permitted uses of the property.

As part of recent budget discussions and Planning Division staff's ongoing coordination with the Santa Barbara Association of Realtors regarding ZIRs, we propose to eliminate the requirement to obtain a ZIR prior to the transfer of a residential condominium unit. In only rare instances do staff find zoning violations in condominium units due to the existence of Homeowners' Associations and CC&Rs that prohibit most potential land use violations. We also propose exempting from the ZIR requirements residential properties that are either under construction or have recently received final building inspection, as staff does not anticipate finding zoning violations on newly developed properties.

Additionally, we propose language in Section 28.87.220.H to reiterate that it is unlawful for an owner to transfer residential property without first providing a copy of a valid ZIR to the buyer.

**BUDGET IMPACT:**

The fee to prepare a Zoning Information Report is one of only a few Planning Division fees intended to recover the staff's time to prepare the work product. Therefore, while this proposal will slightly reduce the workload of the Division, it will also proportionately reduce revenue to the Planning Division. The benefits of these changes include an ability to perform ZIRs more quickly given reduced number of applications, and additional time that the ZIR preparer would have available to contribute to other duties of the Planning Division.

**ATTACHMENT:** Draft Ordinance

**PREPARED BY:** Renee Brooke, AICP, Zoning and Enforcement Supervisor

**SUBMITTED BY:** Paul Casey, Assistant City Administrator/ Community Development Director

**APPROVED BY:** City Administrator's Office

ORDINANCE COMMITTEE DISCUSSION DRAFT 10/26/2010  
SHOWING CHANGES FROM EXISTING CODE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF  
THE CITY OF SANTA BARBARA  
AMENDING SECTION 28.87.220 OF THE  
SANTA BARBARA MUNICIPAL CODE  
RELATING TO THE PREPARATION OF  
ZONING INFORMATION REPORTS.

SECTION 1. Section 28.87.220 of Chapter 28.87 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

**28.87.220 Zoning Information Report.**

**1A. STATEMENT OF LEGISLATIVE INTENT.**

These regulations are intended to require a Zoning Information Report for purchasers of residential property, setting forth matters of City record pertaining to the authorized use, occupancy, zoning and the results of a physical inspection of the property. Primary purpose of the report is to provide information to the potential buyer of residential property concerning the zoning and permitted use of the property.

**2B. DEFINITIONS.**

**a1.** "Owner" shall mean any person, co-partnership, association, corporation or fiduciary having legal or equitable title or any interest in any real property.

**b2.** "Residential property" shall mean any improved real property, designed or permitted to be used for any residential purpose, situated in the City and shall include the building or structures located on said improved real property.

**e3.** "Agreement of sale" shall mean any agreement or written instrument which provides that title to any property shall thereafter be transferred for consideration from one (1) owner to another owner.

**3C. REPORT REQUIRED.**

**a1. Application.** Unless a sale is exempt from the requirements of this section pursuant to Subsection G below, No no later than five (5) days after entering into an "agreement of sale" of any residential property, the owner or owner's authorized representative shall make application to the City for a Zoning Information Report to the Community Development Director on a form provided, and pay a fee as established by resolution of the City Council. An owner of a residential property which is exempt pursuant to Subsection G may, but is not required to, obtain a Zoning Information Report as specified in this Section 28.87.220.

Under normal circumstances the report will be available no later than fifteen (15) working days after the application is received by the Community Development Director.

**b2. Copy to Buyer.** Said owner or owner's authorized representative shall provide a copy of the report to the buyer or buyer's authorized representative no later than three (3) days prior to consummation of the transfer of title. The buyer or buyer's authorized representative may waive in writing the requirement for delivery three (3) days prior to consummation of the transfer of title but in any event the report shall be provided to the buyer or buyer's authorized representative prior to the consummation of the transfer of title.

**e3. Proof of Receipt.** Proof of receipt of a copy of the report shall be obtained by the owner or owner's authorized representative prior to consummation of the transfer of title. Said proof shall consist of a statement signed by the buyer or buyer's authorized representative stating that the report has been received, the date of the report and the date it was received. City shall provide a receipt form with each zoning information report. The original of the signed proof of receipt shall be mailed or delivered to the Community Development Director of the City no later than the consummation of the transfer of title.

**4D. CONTENTS OF ZONING INFORMATION REPORT.**

The Community Development Director shall review the applicable City records and provide the applicant the following information on the Zoning Information Report:

- a1.** Street address and parcel number of the property.
- b2.** The zone classification and permitted uses as set forth in the Zoning Ordinance of the City of Santa Barbara.
- e3.** Occupancy and use permitted as indicated and established by records.
- d4.** Variance, special use permits, conditional use permits, modifications and other administrative acts of record.
- e5.** Any special restrictions in use or development which are recorded in City records and may apply to the property.
- f6.** Any known nonconformities or violations of any ordinances or law.
- g7.** The results of a physical inspection for compliance with the Zoning Ordinance and for compliance with Chapter 14.46 of this Code.
- h8.** A statement of whether the real property has had a Building Sewer Lateral Report prepared for the real property pursuant to the requirements of Santa Barbara Municipal Code Chapter 14.46 within the five (5) year period prior to the preparation of the Zoning Information Report and, if so, that a copy of the Building Sewer Lateral Report is available from the City for the buyer's inspection. All Zoning Information Reports shall also contain an advisory statement (in bold not less than 10 point typeface) prepared by the Public Works Director which advises a purchaser of residential real property regarding the potential problems and concerns caused by an inadequate, failing, or poorly-maintained Building Sewer Lateral. In addition, the standard required advisory statement shall indicate the advisability of a purchaser obtaining a recently-prepared Building Sewer Lateral Inspection Report.

**5E. VIOLATION OF LAW NOT PERMITTED.**

Any report issued pursuant to this section shall not constitute authorization to violate any ordinance or law, regardless of whether the report issued pursuant to this section purports to authorize such violation or not.

**6F. EXPIRATION OF REPORT.**

Each report shall be valid for a period of twelve (12) months after date of issue or until a transfer of title occurs, whichever is sooner.

**7G. EXEMPTIONS.**

The provisions of this section shall not apply to the following sales:

1. The first sale of a residential building located in a subdivision whose final map has been approved and recorded in accordance with the Subdivision Map Act not more than two (2) years prior to the first sale.

2. The sale of any residential property on which a new main building is under construction pursuant to a valid building permit on the date the owner enters into the agreement for sale with the buyer.

3. The sale of any residential property where a final inspection was issued for a new main building on the lot not more than three (3) months prior to the date on which the owner entered into the agreement for sale with the buyer.

4. Any sale of a condominium unit.

**8H. EFFECT OF NONCOMPLIANCE.**

Unless a sale of residential property is exempt from the provisions of this Section 28.87.220, it shall be unlawful for any owner to transfer title to any residential property without providing the buyer with a Zoning Information Report as required in this Section 28.87.220. The failure to comply with the provisions of this Section shall not invalidate the transfer or conveyance of real property to a bona fide purchaser or encumbrancer for value.